

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BRICKLAYERS AND ALLIED CRAFTWORKERS	:	CIVIL ACTION
LOCAL 1 OF PA/DE et al.	:	
	:	NO. 02CV-4079
Plaintiffs,	:	
v.	:	
	:	
MASTRO MASONRY CONTRACTORS et al.	:	
	:	
Defendants	:	
	:	

ORDER

Now, this _____ day of October 2003,

It is ORDERED that Plaintiff's requests for revisions of the September 30, 2003, Non-jury Trial Attachment Order are GRANTED.

It is ORDERED AND DECREED that:

1. Plaintiffs' trial memorandum shall be filed on or before October 10, 2003.
2. Plaintiffs shall draft and submit to counsel representing Defendants Bock and XL Specialty Insurance findings of fact and conclusions of law on or before October 13, 2003.
3. Plaintiffs shall draft and submit its written summary of its contentions on the facts and theories of liability and damages on or before October 14, 2003.
4. Plaintiffs may submit the above documents to the Court by facsimile.

BY THE COURT,

HONORABLE JAMES KNOLL GARDNER, J.

MERANZE AND KATZ, P.C.

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FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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MASTRO MASONRY CONTRACTORS et al.	:	
	:	
Defendants	:	
	:	

MOTION TO REVISE NON JURY ATTACHMENT ORDER

Plaintiffs, Bricklayers and Allied Craftworkers of Local 1 of PA/DE, Bricklayers and Allied Craftworkers Local 1 of PA/DE Health and Welfare Fund, Bricklayers and Allied Craftworkers Local 1 of PA/DE Joint Apprenticeship and Training Fund, Tile Layers Local 6 Annuity Fund, TMT Tile Finishers Local 32 Annuity Fund, Tile Layers Local 6 Vacation Fund and TMT Tile Finishers Local 32 Vacation Fund respectfully request that the Court revise its Non-Jury Trial Attachment Order of September 30, 2003.

1. Plaintiffs filed a Complaint in this matter on June 26, 2002 to recover estimated unpaid employee benefit fund contributions, interest and liquidated damages from the Defendants Mastro Masonry and Joseph Russo and to compel an audit of Defendants' payroll records to determine the actual amount of the contribution delinquencies to the plaintiff union and funds.

2. Defendants Mastro Masonry Contractors and Joseph Russo were served with a Summons and Complaint on July 29, 2002.

3. Defendants failed to file a response to the Complaint within the time allowed under Federal Rule of Civil Procedure 12(a).

4. Plaintiffs filed for entry of default under Federal Rule of Civil Procedure 55(a) and submitted a Motion For Default Judgment on September 4, 2002.

5. The Honorable Judge James Knoll Gardner issued a Non-Jury Trial Attachment Order on September 30, 2003, ordering that a trial on damages only on Plaintiffs' motion for default judgment be held on Monday October 20, 2003.

6. The Court further directed that Plaintiffs submit a trial memorandum on October 8, submit agreed upon findings of fact and conclusions of law at least fifteen days before trial and provide a written summary of Plaintiffs' contentions regarding the facts and theories concerning liability and damages ten business days before trial.

7. Plaintiffs' counsel did not receive copies of the Courts Order until Monday, October 6, 2003.

8. Plaintiff needs additional time to properly prepare the documents requested by the Court.

9. On October 7, 2003, Plaintiffs' counsel consulted with counsel for Defendants Bock and XL Specialty, who indicated that he did not oppose Plaintiffs' request for revisions in the Court's Non-Jury Trial Attachment Order.

WHEREFORE, Plaintiffs request that this Honorable Court modify its Non-Jury Trial Attachment Order as follows:

- a) Plaintiffs' trial memorandum shall be filed on or before October 10, 2003.
- b) Plaintiffs shall draft and submit to counsel representing Defendants Bock and XL Specialty Insurance findings of fact and conclusions of law on or before October 13, 2003.
- c) Plaintiffs shall draft and submit its written summary of its contentions on the facts and theories of liability and damages on or before October 14, 2003.
- d) Plaintiffs may submit the above documents to the Court by facsimile.

Respectfully submitted,

MERANZE AND KATZ P.C.

CLAIBORNE S. NEWLIN
Attorney for Plaintiffs

Dated: October 8, 2003